

REFERENCE TITLE: uniform local sales tax base

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

## **SB 1217**

Introduced by  
Senator Martin

### **AN ACT**

AMENDING SECTION 40-207, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3015.06, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-2075, 42-5061, 42-5069, 42-5159, 42-6001, 42-6002 AND 42-6003, ARIZONA REVISED STATUTES; REPEALING SECTIONS 42-6004, 42-6005, 42-6006, 42-6007, 42-6008, 42-6009 AND 42-6207, ARIZONA REVISED STATUTES; REPEALING TITLE 42, CHAPTER 6, ARTICLE 2, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 2; RELATING TO MUNICIPAL EXCISE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 40-207, Arizona Revised Statutes, is amended to  
3 read:

4 40-207. Electricity suppliers: rules

5 A. An electricity supplier shall obtain a certificate from the  
6 commission before offering electricity for sale to retail electric customers  
7 in this state.

8 B. The commission may adopt, amend and repeal rules reasonably  
9 necessary to carry out this section. On or before December 31, 1998, the  
10 commission shall adopt rules providing minimum standards of disclosure and  
11 complaint procedures applicable to certificated electricity suppliers. The  
12 commission may impose conditions on the certification of electricity  
13 suppliers to assure their financial stability, including periodic reports,  
14 bonds and deposits.

15 C. As a condition of obtaining a certificate required under subsection  
16 A, an electricity supplier shall agree to be subject to the transaction  
17 privilege taxes and affiliated excise taxes pursuant to title 42, chapter 5  
18 ~~and the provisions of the model city tax code.~~

19 Sec. 2. Repeal

20 Section 41-3015.06, Arizona Revised Statutes, is repealed.

21 Sec. 3. Section 42-2075, Arizona Revised Statutes, is amended to read:

22 42-2075. Audit duration: definition

23 A. An audit of a taxpayer's return or claim for refund shall not  
24 exceed two years from the date of initial audit contact to the issuance of a  
25 notice of proposed deficiency assessment or proposed overpayment, except:

26 1. An audit of a fraudulent tax return.

27 2. An audit delayed as the result of the taxpayer's bankruptcy  
28 proceeding.

29 3. An audit in which the department has issued a letter to the  
30 taxpayer or the taxpayer's representative citing the potential imposition of  
31 the penalty described in section 42-1125, subsection C for the taxpayer's  
32 failure or refusal to provide information pursuant to the department's  
33 written request.

34 4. An audit involving proceedings concerning the enforcement or  
35 validity of a subpoena or subpoena duces tecum issued pursuant to section  
36 42-1006, subsection C.

37 5. An audit involving a proceeding under section 42-2056.

38 6. An audit where a taxpayer has filed a petition pursuant to section  
39 43-1148, but only in relation to the effect of the petition request.

40 7. An audit in which the taxpayer provides a written request to extend  
41 the audit beyond the two-year period. A request for extension under this  
42 paragraph is not a substitute for a waiver of the statute of limitations  
43 pursuant to section 42-1104, subsection B, paragraph 9. However, a waiver of  
44 the statute of limitations is considered to be a written request to extend  
45 the audit beyond the two-year period under this paragraph.

1 B. This section applies to audits conducted by the department and to  
2 joint audits conducted by the department and cities and towns ~~pursuant to~~  
3 ~~section 42-6005.~~

4 C. For the purposes of this section, "initial audit contact" means:

5 1. For a field audit, the date of the first meeting between the  
6 taxpayer or the taxpayer's representative and a member of the department's  
7 audit staff.

8 2. For a desk or office audit, the date of the first letter to the  
9 taxpayer regarding the audit.

10 Sec. 4. Section 42-5061, Arizona Revised Statutes, is amended to read:  
11 42-5061. Retail classification; definitions

12 A. The retail classification is comprised of the business of selling  
13 tangible personal property at retail. The tax base for the retail  
14 classification is the gross proceeds of sales or gross income derived from  
15 the business. The tax imposed on the retail classification does not apply to  
16 the gross proceeds of sales or gross income from:

17 1. Professional or personal service occupations or businesses which  
18 involve sales or transfers of tangible personal property only as  
19 inconsequential elements.

20 2. Services rendered in addition to selling tangible personal property  
21 at retail.

22 3. Sales of warranty or service contracts. The storage, use or  
23 consumption of tangible personal property provided under the conditions of  
24 such contracts is subject to tax under section 42-5156.

25 4. Sales of tangible personal property by any nonprofit organization  
26 organized and operated exclusively for charitable purposes and recognized by  
27 the United States internal revenue service under section 501(c)(3) of the  
28 internal revenue code.

29 5. Sales to persons engaged in business classified under the  
30 restaurant classification of articles used by human beings for food, drink or  
31 condiment, whether simple, mixed or compounded.

32 6. Business activity which is properly included in any other business  
33 classification which is taxable under article 1 of this chapter.

34 7. The sale of stocks and bonds.

35 8. Drugs and medical oxygen, including delivery hose, mask or tent,  
36 regulator and tank, on the prescription of a member of the medical, dental or  
37 veterinarian profession who is licensed by law to administer such substances.

38 9. Prosthetic appliances as defined in section 23-501 prescribed or  
39 recommended by a health professional licensed pursuant to title 32, chapter  
40 7, 8, 11, 13, 14, 15, 16, 17 or 29.

41 10. Insulin, insulin syringes and glucose test strips.

42 11. Prescription eyeglasses or contact lenses.

43 12. Hearing aids as defined in section 36-1901.

44 13. Durable medical equipment which has a centers for medicare and  
45 medicaid services common procedure code, is designated reimbursable by

1 medicare, is prescribed by a person who is licensed under title 32, chapter  
2 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
3 customarily used to serve a medical purpose, is generally not useful to a  
4 person in the absence of illness or injury and is appropriate for use in the  
5 home.

6 14. Sales to nonresidents of this state for use outside this state if  
7 the vendor ships or delivers the tangible personal property out of this  
8 state.

9 15. Food, as provided in and subject to the conditions of article 3 of  
10 this chapter and section 42-5074.

11 16. Items purchased with United States department of agriculture food  
12 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
13 958) or food instruments issued under section 17 of the child nutrition act  
14 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
15 section 1786).

16 17. Textbooks by any bookstore that are required by any state  
17 university or community college.

18 18. Food and drink to a person who is engaged in business which is  
19 classified under the restaurant classification and which provides such food  
20 and drink without monetary charge to its employees for their own consumption  
21 on the premises during the employees' hours of employment.

22 19. Articles of food, drink or condiment and accessory tangible  
23 personal property to a school district if such articles and accessory  
24 tangible personal property are to be prepared and served to persons for  
25 consumption on the premises of a public school within the district during  
26 school hours.

27 20. Lottery tickets or shares pursuant to title 5, chapter 5,  
28 article 1.

29 21. The sale of precious metal bullion and monetized bullion to the  
30 ultimate consumer, but the sale of coins or other forms of money for  
31 manufacture into jewelry or works of art is subject to the tax. For the  
32 purposes of this paragraph:

33 (a) "Monetized bullion" means coins and other forms of money which are  
34 manufactured from gold, silver or other metals and which have been or are  
35 used as a medium of exchange in this or another state, the United States or a  
36 foreign nation.

37 (b) "Precious metal bullion" means precious metal, including gold,  
38 silver, platinum, rhodium and palladium, which has been smelted or refined so  
39 that its value depends on its contents and not on its form.

40 22. Motor vehicle fuel and use fuel which are subject to a tax imposed  
41 under title 28, chapter 16, article 1, sales of use fuel to a holder of a  
42 valid single trip use fuel tax permit issued under section 28-5739, sales of  
43 aviation fuel which are subject to the tax imposed under section 28-8344 and  
44 sales of jet fuel which are subject to the tax imposed under article 8 of  
45 this chapter.

1       23. Tangible personal property sold to a person engaged in the business  
2 of leasing or renting such property under the personal property rental  
3 classification if such property is to be leased or rented by such person.

4       24. Tangible personal property sold in interstate or foreign commerce  
5 if prohibited from being so taxed by the Constitution of the United States or  
6 the constitution of this state.

7       25. Tangible personal property sold to:

8       (a) A qualifying hospital as defined in section 42-5001.

9       (b) A qualifying health care organization as defined in section  
10 42-5001 if the tangible personal property is used by the organization solely  
11 to provide health and medical related educational and charitable services.

12       (c) A qualifying health care organization as defined in section  
13 42-5001 if the organization is dedicated to providing educational,  
14 therapeutic, rehabilitative and family medical education training for blind,  
15 visually impaired and multihandicapped children from the time of birth to age  
16 twenty-one.

17       (d) A qualifying community health center as defined in section  
18 42-5001.

19       (e) A nonprofit charitable organization that has qualified under  
20 section 501(c)(3) of the internal revenue code and that regularly serves  
21 meals to the needy and indigent on a continuing basis at no cost.

22       (f) For taxable periods beginning from and after June 30, 2001, a  
23 nonprofit charitable organization that has qualified under section 501(c)(3)  
24 of the internal revenue code and that provides residential apartment housing  
25 for low income persons over sixty-two years of age in a facility that  
26 qualifies for a federal housing subsidy, if the tangible personal property is  
27 used by the organization solely to provide residential apartment housing for  
28 low income persons over sixty-two years of age in a facility that qualifies  
29 for a federal housing subsidy.

30       26. Magazines or other periodicals or other publications by this state  
31 to encourage tourist travel.

32       27. Tangible personal property sold to a person that is subject to tax  
33 under this article by reason of being engaged in business classified under  
34 the prime contracting classification under section 42-5075, or to a  
35 subcontractor working under the control of a prime contractor that is subject  
36 to tax under article 1 of this chapter, **OR THE MUNICIPAL LAND SALE**  
37 **CLASSIFICATION OR MUNICIPAL DEVELOPER CLASSIFICATION UNDER CHAPTER 6, ARTICLE**  
38 **2 OF THIS TITLE**, if the property so sold is any of the following:

39       (a) Incorporated or fabricated by the person into any real property,  
40 structure, project, development or improvement as part of the business.

41       (b) Used in environmental response or remediation activities under  
42 section 42-5075, subsection B, paragraph 6.

43       (c) Incorporated or fabricated by the person into any lake facility  
44 development in a commercial enhancement reuse district under conditions

prescribed for the deduction allowed by section 42-5075, subsection B, paragraph 8.

28. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.

(b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.

29. Tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for mentally or physically handicapped persons if the programs are exclusively for training, job placement, rehabilitation or testing.

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Sales of seeds, seedlings, roots, bulbs, cuttings and other propagative material to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person who is physically disabled as defined in section 46-191, has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Sales of tangible personal property that is shipped or delivered directly to a destination outside the United States for use in that foreign country.

36. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

37. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for fifteen full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

39. Sales of liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

40. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. For the purposes of this paragraph:

(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the owner or upon the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

(b) "Personal property liquidator" means a person who is retained to conduct a sale in a personal property liquidation transaction.

41. Sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of

1 the state department of corrections, the department of public safety, the  
2 department of juvenile corrections or a county sheriff.

3 42. A motor vehicle and any repair and replacement parts and tangible  
4 personal property becoming a part of such motor vehicle sold to a motor  
5 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4  
6 and who is engaged in the business of leasing or renting such property.

7 43. Livestock and poultry feed, salts, vitamins and other additives for  
8 livestock or poultry consumption that are sold to persons who are engaged in  
9 producing livestock, poultry, or livestock or poultry products or who are  
10 engaged in feeding livestock or poultry commercially. For the purposes of  
11 this paragraph, "poultry" includes ratites.

12 44. Sales of implants used as growth promotants and injectable  
13 medicines, not already exempt under paragraph 8 of this subsection, for  
14 livestock or poultry owned by or in possession of persons who are engaged in  
15 producing livestock, poultry, or livestock or poultry products or who are  
16 engaged in feeding livestock or poultry commercially. For the purposes of  
17 this paragraph, "poultry" includes ratites.

18 45. Sales of motor vehicles at auction to nonresidents of this state  
19 for use outside this state if the vehicles are shipped or delivered out of  
20 this state, regardless of where title to the motor vehicles passes or its  
21 free on board point.

22 46. Tangible personal property sold to a person engaged in business and  
23 subject to tax under the transient lodging classification if the tangible  
24 personal property is a personal hygiene item or articles used by human beings  
25 for food, drink or condiment, except alcoholic beverages, which are furnished  
26 without additional charge to and intended to be consumed by the transient  
27 during the transient's occupancy.

28 47. Sales of alternative fuel, as defined in section 1-215, to a used  
29 oil fuel burner who has received a permit to burn used oil or used oil fuel  
30 under section 49-426 or 49-480.

31 48. Sales of materials that are purchased by or for publicly funded  
32 libraries including school district libraries, charter school libraries,  
33 community college libraries, state university libraries or federal, state,  
34 county or municipal libraries for use by the public as follows:

35 (a) Printed or photographic materials, beginning August 7, 1985.

36 (b) Electronic or digital media materials, beginning July 17, 1994.

37 49. Tangible personal property sold to a commercial airline and  
38 consisting of food, beverages and condiments and accessories used for serving  
39 the food and beverages, if those items are to be provided without additional  
40 charge to passengers for consumption in flight. For the purposes of this  
41 paragraph, "commercial airline" means a person holding a federal certificate  
42 of public convenience and necessity or foreign air carrier permit for air  
43 transportation to transport persons, property or United States mail in  
44 intrastate, interstate or foreign commerce.



50. Sales of alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

51. Sales of any spirituous, vinous or malt liquor by a person that is licensed in this state as a wholesaler by the department of liquor licenses and control pursuant to title 4, chapter 2, article 1.

52. Sales of tangible personal property to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

53. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

B. In addition to the deductions from the tax base prescribed by subsection A of this section, the gross proceeds of sales or gross income derived from sales of the following categories of tangible personal property shall be deducted from the tax base:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media which are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

1           5. Neat animals, horses, asses, sheep, ratites, swine or goats used or  
2 to be used as breeding or production stock, including sales of breedings or  
3 ownership shares in such animals used for breeding or production.

4           6. Pipes or valves four inches in diameter or larger used to transport  
5 oil, natural gas, artificial gas, water or coal slurry, including compressor  
6 units, regulators, machinery and equipment, fittings, seals and any other  
7 part that is used in operating the pipes or valves.

8           7. Aircraft, navigational and communication instruments and other  
9 accessories and related equipment sold to:

10           (a) A person holding a federal certificate of public convenience and  
11 necessity, a supplemental air carrier certificate under federal aviation  
12 regulations (14 Code of Federal Regulations part 121) or a foreign air  
13 carrier permit for air transportation for use as or in conjunction with or  
14 becoming a part of aircraft to be used to transport persons, property or  
15 United States mail in intrastate, interstate or foreign commerce.

16           (b) Any foreign government for use by such government outside of this  
17 state.

18           (c) Persons who are not residents of this state and who will not use  
19 such property in this state other than in removing such property from this  
20 state. This subdivision also applies to corporations that are not  
21 incorporated in this state, regardless of maintaining a place of business in  
22 this state, if the principal corporate office is located outside this state  
23 and the property will not be used in this state other than in removing the  
24 property from this state.

25           8. Machinery, tools, equipment and related supplies used or consumed  
26 directly in repairing, remodeling or maintaining aircraft, aircraft engines  
27 or aircraft component parts by or on behalf of a certificated or licensed  
28 carrier of persons or property.

29           9. Railroad rolling stock, rails, ties and signal control equipment  
30 used directly to transport persons or property.

31           10. Machinery or equipment used directly to drill for oil or gas or  
32 used directly in the process of extracting oil or gas from the earth for  
33 commercial purposes.

34           11. Buses or other urban mass transit vehicles which are used directly  
35 to transport persons or property for hire or pursuant to a governmentally  
36 adopted and controlled urban mass transportation program and which are sold  
37 to bus companies holding a federal certificate of convenience and necessity  
38 or operated by any city, town or other governmental entity or by any person  
39 contracting with such governmental entity as part of a governmentally adopted  
40 and controlled program to provide urban mass transportation.

41           12. Groundwater measuring devices required under section 45-604.

42           13. New machinery and equipment consisting of tractors, tractor-drawn  
43 implements, self-powered implements, machinery and equipment necessary for  
44 extracting milk, and machinery and equipment necessary for cooling milk and  
45 livestock, and drip irrigation lines not already exempt under paragraph 6 of

1 this subsection and that are used for commercial production of agricultural,  
2 horticultural, viticultural and floricultural crops and products in this  
3 state. For the purposes of this paragraph:

4 (a) "New machinery and equipment" means machinery and equipment which  
5 have never been sold at retail except pursuant to leases or rentals which do  
6 not total two years or more.

7 (b) "Self-powered implements" includes machinery and equipment that  
8 are electric-powered.

9 14. Machinery or equipment used in research and development. For the  
10 purposes of this paragraph, "research and development" means basic and  
11 applied research in the sciences and engineering, and designing, developing  
12 or testing prototypes, processes or new products, including research and  
13 development of computer software that is embedded in or an integral part of  
14 the prototype or new product or that is required for machinery or equipment  
15 otherwise exempt under this section to function effectively. Research and  
16 development do not include manufacturing quality control, routine consumer  
17 product testing, market research, sales promotion, sales service, research in  
18 social sciences or psychology, computer software research that is not  
19 included in the definition of research and development, or other  
20 nontechnological activities or technical services.

21 15. Machinery and equipment that are purchased by or on behalf of the  
22 owners of a soundstage complex and primarily used for motion picture,  
23 multimedia or interactive video production in the complex. This paragraph  
24 applies only if the initial construction of the soundstage complex begins  
25 after June 30, 1996 and before January 1, 2002 and the machinery and  
26 equipment are purchased before the expiration of five years after the start  
27 of initial construction. For the purposes of this paragraph:

28 (a) "Motion picture, multimedia or interactive video production"  
29 includes products for theatrical and television release, educational  
30 presentations, electronic retailing, documentaries, music videos, industrial  
31 films, CD-ROM, video game production, commercial advertising and television  
32 episode production and other genres that are introduced through developing  
33 technology.

34 (b) "Soundstage complex" means a facility of multiple stages including  
35 production offices, construction shops and related areas, prop and costume  
36 shops, storage areas, parking for production vehicles and areas that are  
37 leased to businesses that complement the production needs and orientation of  
38 the overall facility.

39 16. Tangible personal property that is used by either of the following  
40 to receive, store, convert, produce, generate, decode, encode, control or  
41 transmit telecommunications information:

42 (a) Any direct broadcast satellite television or data transmission  
43 service that operates pursuant to 47 Code of Federal Regulations parts 25 and  
44 100.

1 (b) Any satellite television or data transmission facility, if both of  
2 the following conditions are met:

3 (i) Over two-thirds of the transmissions, measured in megabytes,  
4 transmitted by the facility during the test period were transmitted to or on  
5 behalf of one or more direct broadcast satellite television or data  
6 transmission services that operate pursuant to 47 Code of Federal Regulations  
7 parts 25 and 100.

8 (ii) Over two-thirds of the transmissions, measured in megabytes,  
9 transmitted by or on behalf of those direct broadcast television or data  
10 transmission services during the test period were transmitted by the facility  
11 to or on behalf of those services.

12 For the purposes of subdivision (b) of this paragraph, "test period" means  
13 the three hundred sixty-five day period beginning on the later of the date on  
14 which the tangible personal property is purchased or the date on which the  
15 direct broadcast satellite television or data transmission service first  
16 transmits information to its customers.

17 17. Clean rooms that are used for manufacturing, processing,  
18 fabrication or research and development, as defined in paragraph 14 of this  
19 subsection, of semiconductor products. For the purposes of this paragraph,  
20 "clean room" means all property that comprises or creates an environment  
21 where humidity, temperature, particulate matter and contamination are  
22 precisely controlled within specified parameters, without regard to whether  
23 the property is actually contained within that environment or whether any of  
24 the property is affixed to or incorporated into real property. Clean room:

25 (a) Includes the integrated systems, fixtures, piping, movable  
26 partitions, lighting and all property that is necessary or adapted to reduce  
27 contamination or to control airflow, temperature, humidity, chemical purity  
28 or other environmental conditions or manufacturing tolerances, as well as the  
29 production machinery and equipment operating in conjunction with the clean  
30 room environment.

31 (b) Does not include the building or other permanent, nonremovable  
32 component of the building that houses the clean room environment.

33 18. Machinery and equipment used directly in the feeding of poultry,  
34 the environmental control of housing for poultry, the movement of eggs within  
35 a production and packaging facility or the sorting or cooling of eggs. This  
36 exemption does not apply to vehicles used for transporting eggs.

37 19. Machinery or equipment, including related structural components,  
38 that is employed in connection with manufacturing, processing, fabricating,  
39 job printing, refining, mining, natural gas pipelines, metallurgical  
40 operations, telecommunications, producing or transmitting electricity or  
41 research and development and that is used directly to meet or exceed rules or  
42 regulations adopted by the federal energy regulatory commission, the United  
43 States environmental protection agency, the United States nuclear regulatory  
44 commission, the Arizona department of environmental quality or a political

1 subdivision of this state to prevent, monitor, control or reduce land, water  
2 or air pollution.

3 20. Machinery and equipment that are sold to a person engaged in the  
4 commercial production of livestock, livestock products or agricultural,  
5 horticultural, viticultural or floricultural crops or products in this state  
6 and that are used directly and primarily to prevent, monitor, control or  
7 reduce air, water or land pollution.

8 21. Machinery or equipment that enables a television station to  
9 originate and broadcast or to receive and broadcast digital television  
10 signals and that was purchased to facilitate compliance with the  
11 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States  
12 Code section 336) and the federal communications commission order issued  
13 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does  
14 not exempt any of the following:

15 (a) Repair or replacement parts purchased for the machinery or  
16 equipment described in this paragraph.

17 (b) Machinery or equipment purchased to replace machinery or equipment  
18 for which an exemption was previously claimed and taken under this paragraph.

19 (c) Any machinery or equipment purchased after the television station  
20 has ceased analog broadcasting, or purchased after November 1, 2009,  
21 whichever occurs first.

22 22. Qualifying equipment that is purchased from and after June 30, 2004  
23 through June 30, 2014 by a qualified business under section 41-1516 for  
24 harvesting or the initial processing of qualifying forest products removed  
25 from qualifying projects as defined in section 41-1516. To qualify for this  
26 deduction, the qualified business at the time of purchase must present its  
27 certification approved by the department.

28 23. Machinery, equipment and other tangible personal property used  
29 directly in motion picture production by a motion picture production company.  
30 To qualify for this deduction, at the time of purchase, the motion picture  
31 production company must present to the retailer its certificate that is  
32 issued pursuant to section 42-5009, subsection H and that establishes its  
33 qualification for the deduction.

34 C. The deductions provided by subsection B of this section do not  
35 include sales of:

36 1. Expendable materials. For the purposes of this paragraph,  
37 expendable materials do not include any of the categories of tangible  
38 personal property specified in subsection B of this section regardless of the  
39 cost or useful life of that property.

40 2. Janitorial equipment and hand tools.

41 3. Office equipment, furniture and supplies.

42 4. Tangible personal property used in selling or distributing  
43 activities, other than the telecommunications transmissions described in  
44 subsection B, paragraph 16 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

E. In computing the tax base, gross proceeds of sales or gross income from retail sales of heavy trucks and trailers does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4051.

F. In computing the tax base, gross proceeds of sales or gross income from the sale of use fuel, as defined in section 28-5601, does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4091.

G. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of services, and if not so kept the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.

H. If a person is engaged in the business of selling tangible personal property at both wholesale and retail, the tax under this section applies only to the gross proceeds of the sales made other than at wholesale if the person's books are kept so as to show separately the gross proceeds of sales of each class, and if the books are not so kept, the tax under this section applies to the gross proceeds of every sale so made.

I. A person who engages in manufacturing, baling, crating, boxing, barreling, canning, bottling, sacking, preserving, processing or otherwise preparing for sale or commercial use any livestock, agricultural or horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to businesses classified under the:

1. Transporting classification.
2. Utilities classification.

- 1           3. Telecommunications classification.
- 2           4. Pipeline classification.
- 3           5. Private car line classification.
- 4           6. Publication classification.
- 5           7. Job printing classification.
- 6           8. Prime contracting classification.
- 7           9. Owner builder sales classification.
- 8          10. Restaurant classification.

9          11. MUNICIPAL LAND SALE CLASSIFICATION UNDER CHAPTER 6, ARTICLE 2 OF  
10 THIS TITLE.

11         12. MUNICIPAL DEVELOPER CLASSIFICATION UNDER CHAPTER 6, ARTICLE 2 OF  
12 THIS TITLE.

13           J. The gross proceeds of sales or gross income derived from the  
14 following shall be deducted from the tax base for the retail classification:

15           1. Sales made directly to the United States government or its  
16 departments or agencies by a manufacturer, modifier, assembler or repairer.

17           2. Sales made directly to a manufacturer, modifier, assembler or  
18 repairer if such sales are of any ingredient or component part of products  
19 sold directly to the United States government or its departments or agencies  
20 by the manufacturer, modifier, assembler or repairer.

21           3. Overhead materials or other tangible personal property that is used  
22 in performing a contract between the United States government and a  
23 manufacturer, modifier, assembler or repairer, including property used in  
24 performing a subcontract with a government contractor who is a manufacturer,  
25 modifier, assembler or repairer, to which title passes to the government  
26 under the terms of the contract or subcontract.

27           4. Sales of overhead materials or other tangible personal property to  
28 a manufacturer, modifier, assembler or repairer if the gross proceeds of  
29 sales or gross income derived from the property by the manufacturer,  
30 modifier, assembler or repairer will be exempt under paragraph 3 of this  
31 subsection.

32           K. There shall be deducted from the tax base fifty per cent of the  
33 gross proceeds or gross income from any sale of tangible personal property  
34 made directly to the United States government or its departments or agencies,  
35 which is not deducted under subsection J of this section.

36           L. The department shall require every person claiming a deduction  
37 provided by subsection J or K of this section to file on forms prescribed by  
38 the department at such times as the department directs a sworn statement  
39 disclosing the name of the purchaser and the exact amount of sales on which  
40 the exclusion or deduction is claimed.

41           M. In computing the tax base, gross proceeds of sales or gross income  
42 does not include:

43           1. A manufacturer's cash rebate on the sales price of a motor vehicle  
44 if the buyer assigns the buyer's right in the rebate to the retailer.

45           2. The waste tire disposal fee imposed pursuant to section 44-1302.

1           N. There shall be deducted from the tax base the amount received from  
2 sales of solar energy devices, but the deduction shall not exceed five  
3 thousand dollars for each solar energy device. Before deducting any amount  
4 under this subsection, the retailer shall register with the department as a  
5 solar energy retailer. By registering, the retailer acknowledges that it  
6 will make its books and records relating to sales of solar energy devices  
7 available to the department for examination.

8           O. In computing the tax base in the case of the sale or transfer of  
9 wireless telecommunications equipment as an inducement to a customer to enter  
10 into or continue a contract for telecommunications services that are taxable  
11 under section 42-5064, gross proceeds of sales or gross income does not  
12 include any sales commissions or other compensation received by the retailer  
13 as a result of the customer entering into or continuing a contract for the  
14 telecommunications services.

15           P. For the purposes of this section, a sale of wireless  
16 telecommunications equipment to a person who holds the equipment for sale or  
17 transfer to a customer as an inducement to enter into or continue a contract  
18 for telecommunications services that are taxable under section 42-5064 is  
19 considered to be a sale for resale in the regular course of business.

20           Q. Retail sales of prepaid calling cards or prepaid authorization  
21 numbers for telecommunications services, including sales of reauthorization  
22 of a prepaid card or authorization number, are subject to tax under this  
23 section.

24           R. For the purposes of this section, the diversion of gas from a  
25 pipeline by a person engaged in the business of operating a natural or  
26 artificial gas pipeline, for the sole purpose of fueling compressor equipment  
27 to pressurize the pipeline, is not a sale of the gas to the operator of the  
28 pipeline.

29           S. If a seller is entitled to a deduction pursuant to subsection B,  
30 paragraph 16, subdivision (b) of this section, the department may require the  
31 purchaser to establish that the requirements of subsection B, paragraph 16,  
32 subdivision (b) of this section have been satisfied. If the purchaser cannot  
33 establish that the requirements of subsection B, paragraph 16, subdivision  
34 (b) of this section have been satisfied, the purchaser is liable in an amount  
35 equal to any tax, penalty and interest which the seller would have been  
36 required to pay under article 1 of this chapter if the seller had not made a  
37 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this  
38 section. Payment of the amount under this subsection exempts the purchaser  
39 from liability for any tax imposed under article 4 of this chapter and  
40 related to the tangible personal property purchased. The amount shall be  
41 treated as transaction privilege tax to the purchaser and as tax revenues  
42 collected from the seller to designate the distribution base pursuant to  
43 section 42-5029.



1 T. For the purposes of section 42-5032.01, the department shall  
2 separately account for revenues collected under the retail classification  
3 from businesses selling tangible personal property at retail:

4 1. On the premises of a multipurpose facility that is owned, leased or  
5 operated by the tourism and sports authority pursuant to title 5, chapter 8.

6 2. At professional football contests that are held in a stadium  
7 located on the campus of an institution under the jurisdiction of the Arizona  
8 board of regents.

9 U. In computing the tax base for the sale of a motor vehicle to a  
10 nonresident of this state, if the purchaser's state of residence allows a  
11 corresponding use tax exemption to the tax imposed by article 1 of this  
12 chapter and the rate of the tax in the purchaser's state of residence is  
13 lower than the rate prescribed in article 1 of this chapter, and the  
14 nonresident has secured a special ninety day nonresident registration permit  
15 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall  
16 be deducted from the tax base a portion of the gross proceeds or gross income  
17 from the sale so that the amount of transaction privilege tax that is paid in  
18 this state is equal to the excise tax that is imposed by the purchaser's  
19 state of residence on the nonexempt sale or use of the motor vehicle.

20 V. For the purposes of this section:

21 1. "Aircraft" includes:

22 (a) An airplane flight simulator that is approved by the federal  
23 aviation administration for use as a phase II or higher flight simulator  
24 under appendix H, 14 Code of Federal Regulations part 121.

25 (b) Tangible personal property that is permanently affixed or attached  
26 as a component part of an aircraft that is owned or operated by a  
27 certificated or licensed carrier of persons or property.

28 2. "Other accessories and related equipment" includes aircraft  
29 accessories and equipment such as ground service equipment that physically  
30 contact aircraft at some point during the overall carrier operation.

31 3. "Selling at retail" means a sale for any purpose other than for  
32 resale in the regular course of business in the form of tangible personal  
33 property, but transfer of possession, lease and rental as used in the  
34 definition of sale mean only such transactions as are found on investigation  
35 to be in lieu of sales as defined without the words lease or rental.

36 W. For the purposes of subsection J of this section:

37 1. "Assembler" means a person who unites or combines products, wares  
38 or articles of manufacture so as to produce a change in form or substance  
39 without changing or altering the component parts.

40 2. "Manufacturer" means a person who is principally engaged in the  
41 fabrication, production or manufacture of products, wares or articles for use  
42 from raw or prepared materials, imparting to those materials new forms,  
43 qualities, properties and combinations.

44 3. "Modifier" means a person who reworks, changes or adds to products,  
45 wares or articles of manufacture.

1           4. "Overhead materials" means tangible personal property, the gross  
2 proceeds of sales or gross income derived from which would otherwise be  
3 included in the retail classification, and which are used or consumed in the  
4 performance of a contract, the cost of which is charged to an overhead  
5 expense account and allocated to various contracts based upon generally  
6 accepted accounting principles and consistent with government contract  
7 accounting standards.

8           5. "Repairer" means a person who restores or renews products, wares or  
9 articles of manufacture.

10          6. "Subcontract" means an agreement between a contractor and any  
11 person who is not an employee of the contractor for furnishing of supplies or  
12 services that, in whole or in part, are necessary to the performance of one  
13 or more government contracts, or under which any portion of the contractor's  
14 obligation under one or more government contracts is performed, undertaken or  
15 assumed and that includes provisions causing title to overhead materials or  
16 other tangible personal property used in the performance of the subcontract  
17 to pass to the government or that includes provisions incorporating such  
18 title passing clauses in a government contract into the subcontract.

19          Sec. 5. Section 42-5069, Arizona Revised Statutes, is amended to read:

20          42-5069. Commercial lease classification; definitions

21          A. The commercial lease classification is comprised of the business of  
22 leasing for a consideration the use or occupancy of real property.

23          B. A person who, as a lessor, leases or rents for a consideration  
24 under one or more leases or rental agreements the use or occupancy of real  
25 property that is used by the lessee for commercial purposes is deemed to be  
26 engaged in business and subject to the tax imposed by article 1 of this  
27 chapter, but this subsection does not include leases or rentals of real  
28 property used for residential or agricultural purposes.

29          C. The commercial lease classification does not include:

30           1. Any business activities which are classified under the transient  
31 lodging classification.

32           2. Activities engaged in by the Arizona exposition and state fair  
33 board or county fair commissions in connection with events sponsored by those  
34 entities.

35           3. Leasing real property to a lessee who subleases the property if the  
36 lessee is engaged in business classified under the commercial lease  
37 classification or the transient lodging classification OR UNDER THE MUNICIPAL  
38 RESIDENTIAL LEASE CLASSIFICATION UNDER CHAPTER 6, ARTICLE 2 OF THIS TITLE.

39           4. Leasing real property pursuant to a written lease agreement entered  
40 into before December 1, 1967. This exclusion does not apply to:

41           (a) The businesses of hotels, guest houses, dude ranches and resorts,  
42 rooming houses, apartment houses, office buildings, automobile storage  
43 garages, parking lots or tourist camps, or to the extension or renewal of any  
44 such written lease agreement.

(b) Any such written lease agreement unless a rental occupancy tax is paid pursuant to article 9 of this chapter.

5. Leasing real property by a corporation to an affiliated corporation. For THE purposes of this paragraph, "affiliated corporation" means a corporation which owns or controls at least eighty per cent of the lessor, is at least eighty per cent owned or controlled by the lessor or is at least eighty per cent owned or controlled by a corporation which also owns or controls at least eighty per cent of the lessor. Ownership and control are determined by reference to the voting shares of a corporation.

6. Leasing real property for sublease if the tenant in possession of the property is subject to the rental occupancy tax pursuant to article 9 of this chapter.

7. Leasing real property for boarding horses.

8. Leasing or renting real property or the right to use real property at exhibition events in this state sponsored, operated or conducted by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with major league baseball teams or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

9. Leasing or renting real property or the right to use real property for use as a rodeo featuring primarily farm and ranch animals in this state sponsored, operated or conducted by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

10. Leasing or renting dwelling units, lodging facilities or trailer or mobile home spaces if the units, facilities or spaces are intended to serve as the principal or permanent place of residence for the lessee or renter or if the unit, facility or space is leased or rented to a single tenant thirty or more consecutive days.

11. Leasing or renting real property and improvements for use primarily for religious worship by a nonprofit organization that is exempt from taxation under section 501(c)(3) of the internal revenue code and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

12. Leasing or renting real property used for agricultural purposes under either of the following circumstances:

(a) The lease or rental is between family members, trusts, estates, corporations, partnerships, joint venturers or similar entities, or any combination thereof, if the individuals or at least eighty per cent of the beneficiaries, shareholders, partners or joint venturers share a family relationship as parents or ancestors of parents, children or descendants of children, siblings, cousins of the first degree, aunts, uncles, nieces or

nephews of the first degree, spouses of any of the listed relatives and listed relatives by the half-blood or by adoption.

(b) The lessor leases or rents real property used for agricultural purposes under no more than three leases or rental agreements.

13. Leasing, renting or granting the right to use real property to vendors or exhibitors by a trade or industry association which is a qualifying organization pursuant to section 513(d)(3)(C) of the internal revenue code for a period not to exceed twenty-one days in connection with an event that meets all of the following conditions:

(a) ~~Where~~ The majority of such vending or exhibition activities ~~relate~~ **RELATES** to the nature of **THE** trade or business sponsoring the event.

(b) The event is held in conjunction with a formal business meeting of the trade or industry association.

(c) The event is organized by the persons engaged in the particular trade or industry.

14. Leasing, renting or granting the right to use real property for a period not to exceed twenty-one days by a coliseum, civic center, civic plaza, convention center, auditorium or arena owned by this state or any of its political subdivisions.

15. Leasing or subleasing real property used by a nursing care institution as defined in section 36-401 that is licensed pursuant to title 36, chapter 4.

16. Leasing or renting a transportation facility as provided in section 28-7705, subsections A and B.

17. Granting or providing rights to real property that constitute a profit à prendre for the severance of minerals, including all rights to use the surface or subsurface of the property as is necessary or convenient to the right to sever the minerals. This paragraph does not exclude from the commercial lease classification leasehold rights to the real property that are granted in addition to and not included within the right of profit à prendre, but the tax base for the grant of such a leasehold right, if the gross income derived from the grant is not separately stated from the gross income derived from the grant of the profit à prendre, shall not exceed the fair market value of the leasehold rights computed after excluding the value of all rights under the profit à prendre. ~~As used in~~ **FOR THE PURPOSES OF** this paragraph, "profit à prendre" means a right to use the land of another to mine minerals, and carries with it the right of entry and the right to remove and take the minerals from the land and also includes the right to use the surface of the land as is necessary and convenient for exercise of the profit.

**D. FOR MUNICIPAL TAX PURPOSES UNDER CHAPTER 6, ARTICLE 2 OF THIS TITLE, THE COMMERCIAL LEASE CLASSIFICATION DOES NOT INCLUDE LEASING REAL PROPERTY TO A LESSEE WHO LICENSES THE PROPERTY IF ALL OF THE FOLLOWING APPLY:**

**1. THE LESSEE IS ENGAGED IN BUSINESS CLASSIFIED UNDER THE COMMERCIAL LICENSE CLASSIFICATION.**

1           2. LICENSING THE REAL PROPERTY COMPRISES ALL OR PART OF THE LESSEE'S  
2 BUSINESS.

3           3. THE LESSEE IS SUBJECT TO TAX UNDER THIS ARTICLE BY ENGAGING IN THE  
4 COMMERCIAL LICENSE CLASSIFICATION.

5           ~~D.~~ E. The tax base for the commercial lease classification is the  
6 gross proceeds of sales or gross income derived from the business, but  
7 reimbursements to the lessor for utility service shall be deducted from the  
8 tax base.

9           ~~E.~~ F. Notwithstanding section 42-1104, subsection B, paragraph 1,  
10 subdivision (b) and paragraph 2, the failure to file tax returns for the  
11 commercial lease classification that report gross income derived from any  
12 agreement that constitutes, in whole or in part, a grant of a right of profit  
13 à prendre for the severance of minerals does not constitute an exception to  
14 the general rule for the statute of limitations.

15           ~~F.~~ G. For THE purposes of this section:

16           1. "Leasing" includes renting.

17           2. "Real property" includes any improvements, rights or interest in  
18 such property.

19           Sec. 6. Section 42-5159, Arizona Revised Statutes, is amended to read:

20           42-5159. Exemptions

21           A. The tax levied by this article does not apply to the storage, use  
22 or consumption in this state of the following described tangible personal  
23 property:

24           1. Tangible personal property sold in this state, the gross receipts  
25 from the sale of which are included in the measure of the tax imposed by  
26 articles 1 and 2 of this chapter.

27           2. Tangible personal property the sale or use of which has already  
28 been subjected to an excise tax at a rate equal to or exceeding the tax  
29 imposed by this article under the laws of another state of the United States.  
30 If the excise tax imposed by the other state is at a rate less than the tax  
31 imposed by this article, the tax imposed by this article is reduced by the  
32 amount of the tax already imposed by the other state.

33           3. Tangible personal property, the storage, use or consumption of  
34 which the constitution or laws of the United States prohibit this state from  
35 taxing or to the extent that the rate or imposition of tax is  
36 unconstitutional under the laws of the United States.

37           4. Tangible personal property which directly enters into and becomes  
38 an ingredient or component part of any manufactured, fabricated or processed  
39 article, substance or commodity for sale in the regular course of business.

40           5. Motor vehicle fuel and use fuel, the sales, distribution or use of  
41 which in this state is subject to the tax imposed under title 28, chapter 16,  
42 article 1, use fuel which is sold to or used by a person holding a valid  
43 single trip use fuel tax permit issued under section 28-5739, aviation fuel,  
44 the sales, distribution or use of which in this state is subject to the tax  
45 imposed under section 28-8344, and jet fuel, the sales, distribution or use

of which in this state is subject to the tax imposed under article 8 of this chapter.

6. Tangible personal property brought into this state by an individual who was a nonresident at the time the property was purchased for storage, use or consumption by the individual if the first actual use or consumption of the property was outside this state, unless the property is used in conducting a business in this state.

7. Purchases of implants used as growth promotants and injectable medicines, not already exempt under paragraph 16 of this subsection, for livestock and poultry owned by, or in possession of, persons who are engaged in producing livestock, poultry, or livestock or poultry products, or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

8. Livestock, poultry, supplies, feed, salts, vitamins and other additives for use or consumption in the businesses of farming, ranching and feeding livestock or poultry, not including fertilizers, herbicides and insecticides. For the purposes of this paragraph, "poultry" includes ratites.

9. Seeds, seedlings, roots, bulbs, cuttings and other propagative material for use in commercially producing agricultural, horticultural, viticultural or floricultural crops in this state.

10. Tangible personal property not exceeding two hundred dollars in any one month purchased by an individual at retail outside the continental limits of the United States for the individual's own personal use and enjoyment.

11. Advertising supplements which are intended for sale with newspapers published in this state and which have already been subjected to an excise tax under the laws of another state in the United States which equals or exceeds the tax imposed by this article.

12. Materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

13. Tangible personal property purchased by:

(a) A hospital organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) A hospital operated by this state or a political subdivision of this state.

(c) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(d) A qualifying health care organization, as defined in section 42-5001, if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(e) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind, visually impaired and multihandicapped children from the time of birth to age twenty-one.

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for mentally or physically handicapped persons if the programs are exclusively for training, job placement, rehabilitation or testing.

(g) A person that is subject to tax under article 1 of this chapter by reason of being engaged in business classified under the prime contracting classification under section 42-5075, or a subcontractor working under the control of a prime contractor, **OR UNDER THE MUNICIPAL LAND SALE CLASSIFICATION OR MUNICIPAL DEVELOPER CLASSIFICATION UNDER CHAPTER 6, ARTICLE 2 OF THIS TITLE**, if the tangible personal property is any of the following:

(i) Incorporated or fabricated by the contractor into a structure, project, development or improvement in fulfillment of a contract.

(ii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(iii) Incorporated or fabricated by the person into any lake facility development in a commercial enhancement reuse district under conditions prescribed for the deduction allowed by section 42-5075, subsection B, paragraph 8.

(h) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code if the property is purchased from the parent or an affiliate organization that is located outside this state.

(i) A qualifying community health center as defined in section 42-5001.

(j) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(k) A person engaged in business under the transient lodging classification if the property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

(l) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that

1 qualifies for a federal housing subsidy, if the tangible personal property is  
2 used by the organization solely to provide residential apartment housing for  
3 low income persons over sixty-two years of age in a facility that qualifies  
4 for a federal housing subsidy.

5 14. Commodities, as defined by title 7 United States Code section 2,  
6 that are consigned for resale in a warehouse in this state in or from which  
7 the commodity is deliverable on a contract for future delivery subject to the  
8 rules of a commodity market regulated by the United States commodity futures  
9 trading commission.

10 15. Tangible personal property sold by:

11 (a) Any nonprofit organization organized and operated exclusively for  
12 charitable purposes and recognized by the United States internal revenue  
13 service under section 501(c)(3) of the internal revenue code.

14 (b) A nonprofit organization that is exempt from taxation under  
15 section 501(c)(3) or 501(c)(6) of the internal revenue code if the  
16 organization is associated with a major league baseball team or a national  
17 touring professional golfing association and no part of the organization's  
18 net earnings inures to the benefit of any private shareholder or individual.

19 (c) A nonprofit organization that is exempt from taxation under  
20 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the  
21 internal revenue code if the organization sponsors or operates a rodeo  
22 featuring primarily farm and ranch animals and no part of the organization's  
23 net earnings inures to the benefit of any private shareholder or individual.

24 16. Drugs and medical oxygen, including delivery hose, mask or tent,  
25 regulator and tank, on the prescription of a member of the medical, dental or  
26 veterinarian profession who is licensed by law to administer such substances.

27 17. Prosthetic appliances, as defined in section 23-501, prescribed or  
28 recommended by a person who is licensed, registered or otherwise  
29 professionally credentialed as a physician, dentist, podiatrist,  
30 chiropractor, naturopath, homeopath, nurse or optometrist.

31 18. Prescription eyeglasses and contact lenses.

32 19. Insulin, insulin syringes and glucose test strips.

33 20. Hearing aids as defined in section 36-1901.

34 21. Durable medical equipment which has a centers for medicare and  
35 medicaid services common procedure code, is designated reimbursable by  
36 medicare, is prescribed by a person who is licensed under title 32, chapter  
37 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily  
38 used to serve a medical purpose, is generally not useful to a person in the  
39 absence of illness or injury and is appropriate for use in the home.

40 22. Food, as provided in and subject to the conditions of article 3 of  
41 this chapter and section 42-5074.

42 23. Items purchased with United States department of agriculture food  
43 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
44 958) or food instruments issued under section 17 of the child nutrition act



1 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
2 section 1786).

3 24. Food and drink provided without monetary charge by a taxpayer which  
4 is subject to section 42-5074 to its employees for their own consumption on  
5 the premises during the employees' hours of employment.

6 25. Tangible personal property that is used or consumed in a business  
7 subject to section 42-5074 for human food, drink or condiment, whether  
8 simple, mixed or compounded.

9 26. Food, drink or condiment and accessory tangible personal property  
10 if they are to be prepared and served to persons for consumption on the  
11 premises of a public school in a school district during school hours.

12 27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,  
13 article 1.

14 28. Textbooks, sold by a bookstore, that are required by any state  
15 university or community college.

16 29. Magazines, other periodicals or other publications produced by this  
17 state to encourage tourist travel.

18 30. Paper machine clothing, such as forming fabrics and dryer felts,  
19 purchased by a paper manufacturer and directly used or consumed in paper  
20 manufacturing.

21 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
22 purchased by a qualified environmental technology manufacturer, producer or  
23 processor as defined in section 41-1514.02 and directly used or consumed in  
24 the generation or provision of on-site power or energy solely for  
25 environmental technology manufacturing, producing or processing or  
26 environmental protection. This paragraph shall apply for fifteen full  
27 consecutive calendar or fiscal years from the date the first paper  
28 manufacturing machine is placed in service. In the case of an environmental  
29 technology manufacturer, producer or processor who does not manufacture  
30 paper, the time period shall begin with the date the first manufacturing,  
31 processing or production equipment is placed in service.

32 32. Motor vehicles that are removed from inventory by a motor vehicle  
33 dealer as defined in section 28-4301 and that are provided to:

34 (a) Charitable or educational institutions that are exempt from  
35 taxation under section 501(c)(3) of the internal revenue code.

36 (b) Public educational institutions.

37 (c) State universities or affiliated organizations of a state  
38 university if no part of the organization's net earnings inures to the  
39 benefit of any private shareholder or individual.

40 33. Natural gas or liquefied petroleum gas used to propel a motor  
41 vehicle.

42 34. Machinery, equipment, technology or related supplies that are only  
43 useful to assist a person who is physically disabled as defined in section  
44 46-191, has a developmental disability as defined in section 36-551 or has a

1 head injury as defined in section 41-3201 to be more independent and  
2 functional.

3 35. Liquid, solid or gaseous chemicals used in manufacturing,  
4 processing, fabricating, mining, refining, metallurgical operations, research  
5 and development and, beginning on January 1, 1999, printing, if using or  
6 consuming the chemicals, alone or as part of an integrated system of  
7 chemicals, involves direct contact with the materials from which the product  
8 is produced for the purpose of causing or permitting a chemical or physical  
9 change to occur in the materials as part of the production process. This  
10 paragraph does not include chemicals that are used or consumed in activities  
11 such as packaging, storage or transportation but does not affect any  
12 exemption for such chemicals that is otherwise provided by this section. For  
13 the purposes of this paragraph, "printing" means a commercial printing  
14 operation and includes job printing, engraving, embossing, copying and  
15 bookbinding.

16 36. Food, drink and condiment purchased for consumption within the  
17 premises of any prison, jail or other institution under the jurisdiction of  
18 the state department of corrections, the department of public safety, the  
19 department of juvenile corrections or a county sheriff.

20 37. A motor vehicle and any repair and replacement parts and tangible  
21 personal property becoming a part of such motor vehicle sold to a motor  
22 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4  
23 and who is engaged in the business of leasing or renting such property.

24 38. Tangible personal property which is or directly enters into and  
25 becomes an ingredient or component part of cards used as prescription plan  
26 identification cards.

27 39. Overhead materials or other tangible personal property that is used  
28 in performing a contract between the United States government and a  
29 manufacturer, modifier, assembler or repairer, including property used in  
30 performing a subcontract with a government contractor who is a manufacturer,  
31 modifier, assembler or repairer, to which title passes to the government  
32 under the terms of the contract or subcontract. For the purposes of this  
33 paragraph:

34 (a) "Overhead materials" means tangible personal property, the gross  
35 proceeds of sales or gross income derived from which would otherwise be  
36 included in the retail classification, and which are used or consumed in the  
37 performance of a contract, the cost of which is charged to an overhead  
38 expense account and allocated to various contracts based upon generally  
39 accepted accounting principles and consistent with government contract  
40 accounting standards.

41 (b) "Subcontract" means an agreement between a contractor and any  
42 person who is not an employee of the contractor for furnishing of supplies or  
43 services that, in whole or in part, are necessary to the performance of one  
44 or more government contracts, or under which any portion of the contractor's  
45 obligation under one or more government contracts is performed, undertaken or

1 assumed, and that includes provisions causing title to overhead materials or  
2 other tangible personal property used in the performance of the subcontract  
3 to pass to the government or that includes provisions incorporating such  
4 title passing clauses in a government contract into the subcontract.

5 40. Through December 31, 1994, tangible personal property sold pursuant  
6 to a personal property liquidation transaction, as defined in section  
7 42-5061. From and after December 31, 1994, tangible personal property sold  
8 pursuant to a personal property liquidation transaction, as defined in  
9 section 42-5061, if the gross proceeds of the sales were included in the  
10 measure of the tax imposed by article 1 of this chapter or if the personal  
11 property liquidation was a casual activity or transaction.

12 41. Wireless telecommunications equipment that is held for sale or  
13 transfer to a customer as an inducement to enter into or continue a contract  
14 for telecommunications services that are taxable under section 42-5064.

15 42. Alternative fuel, as defined in section 1-215, purchased by a used  
16 oil fuel burner who has received a permit to burn used oil or used oil fuel  
17 under section 49-426 or 49-480.

18 43. Tangible personal property purchased by a commercial airline and  
19 consisting of food, beverages and condiments and accessories used for serving  
20 the food and beverages, if those items are to be provided without additional  
21 charge to passengers for consumption in flight. For the purposes of this  
22 paragraph, "commercial airline" means a person holding a federal certificate  
23 of public convenience and necessity or foreign air carrier permit for air  
24 transportation to transport persons, property or United States mail in  
25 intrastate, interstate or foreign commerce.

26 44. Alternative fuel vehicles if the vehicle was manufactured as a  
27 diesel fuel vehicle and converted to operate on alternative fuel and  
28 equipment that is installed in a conventional diesel fuel motor vehicle to  
29 convert the vehicle to operate on an alternative fuel, as defined in section  
30 1-215.

31 45. Gas diverted from a pipeline, by a person engaged in the business  
32 of operating a natural or artificial gas pipeline, and used or consumed for  
33 the sole purpose of fueling compressor equipment that pressurizes the  
34 pipeline.

35 46. Tangible personal property that is excluded, exempt or deductible  
36 from transaction privilege tax pursuant to section 42-5063.

37 47. Tangible personal property purchased to be incorporated or  
38 installed as part of environmental response or remediation activities under  
39 section 42-5075, subsection B, paragraph 6.

40 48. Tangible personal property sold by a nonprofit organization that is  
41 exempt from taxation under section 501(c)(6) of the internal revenue code if  
42 the organization produces, organizes or promotes cultural or civic related  
43 festivals or events and no part of the organization's net earnings inures to  
44 the benefit of any private shareholder or individual.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064 and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media which are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government for use by such government outside of this state, or sold to persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles which are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and which are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery or equipment which has never been sold at retail except pursuant to leases or rentals which do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Machinery and equipment that are purchased by or on behalf of the owners of a soundstage complex and primarily used for motion picture, multimedia or interactive video production in the complex. This paragraph applies only if the initial construction of the soundstage complex begins

1 after June 30, 1996 and before January 1, 2002 and the machinery and  
2 equipment are purchased before the expiration of five years after the start  
3 of initial construction. For the purposes of this paragraph:

4 (a) "Motion picture, multimedia or interactive video production"  
5 includes products for theatrical and television release, educational  
6 presentations, electronic retailing, documentaries, music videos, industrial  
7 films, CD-ROM, video game production, commercial advertising and television  
8 episode production and other genres that are introduced through developing  
9 technology.

10 (b) "Soundstage complex" means a facility of multiple stages including  
11 production offices, construction shops and related areas, prop and costume  
12 shops, storage areas, parking for production vehicles and areas that are  
13 leased to businesses that complement the production needs and orientation of  
14 the overall facility.

15 16. Tangible personal property that is used by either of the following  
16 to receive, store, convert, produce, generate, decode, encode, control or  
17 transmit telecommunications information:

18 (a) Any direct broadcast satellite television or data transmission  
19 service that operates pursuant to 47 Code of Federal Regulations parts 25 and  
20 100.

21 (b) Any satellite television or data transmission facility, if both of  
22 the following conditions are met:

23 (i) Over two-thirds of the transmissions, measured in megabytes,  
24 transmitted by the facility during the test period were transmitted to or on  
25 behalf of one or more direct broadcast satellite television or data  
26 transmission services that operate pursuant to 47 Code of Federal Regulations  
27 parts 25 and 100.

28 (ii) Over two-thirds of the transmissions, measured in megabytes,  
29 transmitted by or on behalf of those direct broadcast television or data  
30 transmission services during the test period were transmitted by the facility  
31 to or on behalf of those services.

32 For the purposes of subdivision (b) of this paragraph, "test period" means  
33 the three hundred sixty-five day period beginning on the later of the date on  
34 which the tangible personal property is purchased or the date on which the  
35 direct broadcast satellite television or data transmission service first  
36 transmits information to its customers.

37 17. Clean rooms that are used for manufacturing, processing,  
38 fabrication or research and development, as defined in paragraph 14 of this  
39 subsection, of semiconductor products. For the purposes of this paragraph,  
40 "clean room" means all property that comprises or creates an environment  
41 where humidity, temperature, particulate matter and contamination are  
42 precisely controlled within specified parameters, without regard to whether  
43 the property is actually contained within that environment or whether any of  
44 the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

18. Machinery and equipment that are used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

19. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

20. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

21. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

22. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2014 by a qualified business under section 41-1516 for harvesting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this

1 exemption, the qualified business must obtain and present its certification  
2 from the department of commerce at the time of purchase.

3 23. Machinery, equipment and other tangible personal property used  
4 directly in motion picture production by a motion picture production company.  
5 To qualify for this ~~deduction~~ EXEMPTION, at the time of purchase, the motion  
6 picture production company must present to the retailer its certificate that  
7 is issued pursuant to section 42-5009, subsection H and that establishes its  
8 qualification for the ~~deduction~~ EXEMPTION.

9 C. The exemptions provided by subsection B of this section do not  
10 include:

11 1. Expendable materials. For the purposes of this paragraph,  
12 expendable materials do not include any of the categories of tangible  
13 personal property specified in subsection B of this section regardless of the  
14 cost or useful life of that property.

15 2. Janitorial equipment and hand tools.

16 3. Office equipment, furniture and supplies.

17 4. Tangible personal property used in selling or distributing  
18 activities, other than the telecommunications transmissions described in  
19 subsection B, paragraph 16 of this section.

20 5. Motor vehicles required to be licensed by this state, except buses  
21 or other urban mass transit vehicles specifically exempted pursuant to  
22 subsection B, paragraph 11 of this section, without regard to the use of such  
23 motor vehicles.

24 6. Shops, buildings, docks, depots and all other materials of whatever  
25 kind or character not specifically included as exempt.

26 7. Motors and pumps used in drip irrigation systems.

27 D. The following shall be deducted in computing the purchase price of  
28 electricity by a retail electric customer from a utility business:

29 1. Revenues received from sales of ancillary services, electric  
30 distribution services, electric generation services, electric transmission  
31 services and other services related to providing electricity to a retail  
32 electric customer who is located outside this state for use outside this  
33 state if the electricity is delivered to a point of sale outside this state.

34 2. Revenues received from providing electricity, including ancillary  
35 services, electric distribution services, electric generation services,  
36 electric transmission services and other services related to providing  
37 electricity with respect to which the transaction privilege tax imposed under  
38 section 42-5063 has been paid.

39 E. The tax levied by this article does not apply to:

40 1. The storage, use or consumption in Arizona of machinery, equipment,  
41 materials or other tangible personal property if used directly and  
42 predominantly to construct a qualified environmental technology  
43 manufacturing, producing or processing facility, as described in section  
44 41-1514.02. This paragraph applies for ten full consecutive calendar or  
45 fiscal years after the start of initial construction.



2. The purchase of electricity by a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 that is used directly in environmental technology manufacturing, producing or processing. This paragraph shall apply for fifteen full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

F. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Fees charged by a municipally owned utility to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Reimbursement or contribution compensation to any person or persons owning a utility system for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This deduction shall not exceed the value of such property and equipment.

G. For the purposes of subsection B of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

H. For the purposes of subsection D of this section, "ancillary services", "electric distribution service", "electric generation service", "electric transmission service" and "other services" have the same meanings prescribed in section 42-5063.

Sec. 7. Section 42-6001, Arizona Revised Statutes, is amended to read:

42-6001. Collection and administration of transaction privilege tax and affiliated excise taxes; coordinated licensing, collection and audit functions

A. The department ~~may~~ SHALL collect and administer any transaction privilege and affiliated excise taxes, including use tax, severance tax, jet fuel excise and use tax, and rental occupancy tax, imposed by any city or town, and the department and any city or town ~~may~~ SHALL enter into intergovernmental contracts or agreements to provide a uniform method of

1 administration, collection, audit and licensing of transaction privilege and  
 2 affiliated excise taxes imposed by the state or cities or towns pursuant to  
 3 title 11, chapter 7, article 3.

4 B. The director ~~may~~ **SHALL** enter into agreements with cities and towns  
 5 of this state which levy transaction privilege and affiliated excise taxes to  
 6 provide for unified or coordinated licensing, collection and auditing  
 7 programs for such taxes levied by cities and towns and taxes levied pursuant  
 8 to chapter 5 **OR CHAPTER 6, ARTICLE 2** of this title. Such cities and towns  
 9 ~~may~~ **SHALL** enter into agreements with the department to provide for unified or  
 10 coordinated licensing, collection and auditing programs for such transaction  
 11 privilege and affiliated excise taxes levied by such cities and towns and for  
 12 taxes levied pursuant to chapter 5 **OR CHAPTER 6, ARTICLE 2** of this title.

13 C. The director shall establish with such cities and towns a uniform  
 14 licensing, collection and audit committee to direct such unified or  
 15 coordinated functions.

16 Sec. 8. Section 42-6002, Arizona Revised Statutes, is amended to read:

17 **42-6002. Procedures for levy, collection and enforcement**  
 18 **applicable to cities and towns**

19 A. The procedures for levy, collection and enforcement of payment of  
 20 transaction privilege and affiliated excise taxes, including use tax,  
 21 severance tax, jet fuel excise and use tax, and rental occupancy tax, levied  
 22 by a city or town by such city or town shall be in the same manner as  
 23 authorized by chapter 5 of this title ~~unless otherwise provided by the~~  
 24 ~~ordinance of such city or town~~. The department, when acting on behalf of a  
 25 city or town in levying and collecting transaction privilege and affiliated  
 26 taxes for such city or town, shall utilize the procedures for levying,  
 27 collecting and enforcing the payment of such taxes on behalf of ~~a~~ **THE** city  
 28 or town.

29 B. **A LICENSE ISSUED UNDER SECTION 42-5005 MAY LIST ALL CITIES AND**  
 30 **TOWNS IN WHICH THE TAXPAYER TRANSACTS BUSINESS, AND THE TAXPAYER SHALL NOT BE**  
 31 **REQUIRED TO OBTAIN A SEPARATE CITY OR TOWN LICENSE TO TRANSACT BUSINESS IN**  
 32 **THOSE CITIES AND TOWNS.**

33 C. **THE TAXPAYER SHALL INCLUDE ALL STATE, COUNTY, CITY AND TOWN TAXES**  
 34 **WITH THE RETURN SUBMITTED UNDER SECTION 42-5014, AND THE STATE TREASURER**  
 35 **SHALL DISBURSE ALL LOCAL TAXES TO THE RESPECTIVE COUNTIES, CITIES AND TOWNS.**

36 Sec. 9. Section 42-6003, Arizona Revised Statutes, is amended to read:

37 **42-6003. Multimunicipal taxes; determination of municipality**  
 38 **entitled to levy and collect taxes; appeal;**  
 39 **definitions**

40 A. Except as otherwise provided in this section, a taxpayer who has  
 41 paid transaction privilege taxes on a transaction to an appropriate city or  
 42 town, or qualified for an exemption from transaction privilege taxes under  
 43 the ordinance of an appropriate city or town, is not required to pay  
 44 transaction privilege taxes on the same transaction to any other city or  
 45 town.

1 B. If a city or town asserts, in whole or in part, the right to a tax  
2 which was paid to an appropriate city or town, the cities and towns claiming  
3 the tax shall attempt to resolve allocation of the tax among themselves.  
4 Except as otherwise provided in this section, the taxpayer shall not be a  
5 party to the dispute but may be compelled to give evidence or produce books  
6 and records.

7 C. If a city or town asserts the right to tax a transaction which is  
8 exempt from transaction privilege taxes under the ordinance of an appropriate  
9 city or town, the city or town asserting the right to tax and the city or  
10 town which the taxpayer asserts is an appropriate city or town shall attempt  
11 to resolve which city or town has the superior jurisdictional claim. Except  
12 as otherwise provided in this section, the taxpayer shall not be a party to  
13 the dispute but may be compelled to give evidence or produce books and  
14 records.

15 D. If the cities or towns involved cannot resolve the dispute arising  
16 under subsection B or C, any city or town which is a party to the dispute may  
17 submit the issue to the ~~municipal tax code commission~~ STATE BOARD OF TAX  
18 APPEALS for resolution. The taxpayer may intervene in any proceeding before  
19 the ~~commission~~ STATE BOARD to assist in resolving the dispute. The  
20 ~~commission~~ STATE BOARD shall determine which city or town has the superior  
21 jurisdictional claim, based upon its respective ordinances and common law  
22 principles related to transaction privilege taxation, and, if the taxpayer  
23 paid tax on the transaction, shall award the entire tax to the prevailing  
24 city or town.

25 E. If it is determined that the taxpayer should have paid taxes to a  
26 city or town with a higher tax rate than the city or town to which the tax  
27 was actually paid, the taxpayer is liable for the tax at the higher rate only  
28 on transactions occurring after the taxable month of the written notification  
29 requirement provided in subsection H.

30 F. If a city or town with a higher tax rate asserts a claim to  
31 transaction privilege taxes paid to an appropriate city or town with a lower  
32 tax rate, the taxpayer may submit the issue to the ~~municipal tax code~~  
33 ~~commission~~ STATE BOARD OF TAX APPEALS for resolution and may intervene as a  
34 party in a proceeding before the ~~commission~~ STATE BOARD to resolve the  
35 dispute.

36 G. Any party aggrieved by an order or decision of the ~~municipal tax~~  
37 ~~code commission may appeal to the~~ state board of tax appeals ~~within thirty~~  
38 ~~days after notice of the order or decision of the commission has been~~  
39 ~~received by the party. Any party aggrieved by an order or decision of the~~  
40 ~~state board of tax appeals~~ under this section may appeal the order or  
41 decision to tax court but must commence such action within thirty days after  
42 notice of the order or decision of the state board has been received by the  
43 party.

44 H. Following an agreement among the cities or towns involved as to  
45 which city or town has jurisdiction over transaction privilege taxation on a

transaction or following a final determination by ~~the municipal tax code commission~~, the state board of tax appeals or the tax court that a city or town is entitled to collect such taxes, and following written notification to the taxpayer, the taxpayer shall thereafter pay transaction privilege taxes on similar transactions to that city or town.

I. ~~It~~ FOR THE PURPOSES OF this section:

1. "Appropriate city or town" means a city or town in this state either:

(a) In which the business sales office which generated the taxable transaction is located.

(b) In which the purchaser resides, is located or is situated at the time of the transaction.

(c) Which imposes or claims the right to impose a transaction privilege tax on the transaction in question under its ordinance.

2. "Transaction privilege tax" means a municipal transaction privilege license tax, use tax or similar tax and includes for purposes of this section any penalty assessed by a city or town for nonpayment, delinquent payment or failure to timely report or file a return, and any interest assessed because of late payment of taxes.

Sec. 10. Repeal

A. Sections 42-6004, 42-6005, 42-6006, 42-6007, 42-6008, 42-6009 and 42-6207, Arizona Revised Statutes, are repealed.

B. Title 42, chapter 6, article 2, Arizona Revised Statutes, is repealed.

Sec. 11. Title 42, chapter 6, Arizona Revised Statutes, is amended by adding a new article 2, to read:

#### ARTICLE 2. MUNICIPAL EXCISE TAXES

42-6051. Municipal transaction privilege and use taxes: limitations and conditions

A. NOTWITHSTANDING ANY MUNICIPAL CHARTER OR ORDINANCE, A CITY OR TOWN MAY LEVY A TAX ON THE PRIVILEGE OF ENGAGING OR CONTINUING IN ONLY THOSE BUSINESSES THAT ARE CLASSIFIED IN CHAPTER 5, ARTICLE 2 OF THIS TITLE AND THIS ARTICLE AND MAY COMPUTE THE TAX BASE OF THOSE BUSINESSES ONLY AS PRESCRIBED BY CHAPTER 5, ARTICLE 2 OF THIS TITLE AND THIS ARTICLE.

B. A CITY OR TOWN SHALL NOT LEVY A TAX OR ASSESSMENT ON SALES, ON SERVICES OR OTHERWISE ON THE PRIVILEGE OF DOING BUSINESS, HOWEVER DENOMINATED, EXCEPT AS PROVIDED BY THIS SECTION.

C. THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE A MUNICIPAL TAX ON ANY BUSINESS OR TO PROHIBIT EXEMPTIONS FROM MUNICIPAL TAXES IN ADDITION TO THOSE PROVIDED BY CHAPTER 5, ARTICLE 2 OF THIS TITLE AND THIS ARTICLE.

D. NOTWITHSTANDING ANY MUNICIPAL CHARTER OR ORDINANCE, A CITY OR TOWN MAY LEVY AN EXCISE TAX ON THE STORAGE, USE OR CONSUMPTION OF TANGIBLE PERSONAL PROPERTY ONLY AS PROVIDED BY SECTIONS 42-5155 THROUGH 42-5158 AND SUBJECT TO THE EXEMPTIONS PRESCRIBED BY SECTION 42-5159, SUBJECT TO THE FOLLOWING CONDITIONS FOR PURPOSES OF SUCH A MUNICIPAL TAX:

1           1. THE RETAILER UNDER SECTION 42-5155, SUBSECTION A SHALL NOT BE  
2 SUBJECT TO A TAX, COMPUTED ON THE SALES PRICE, IMPOSED BY ANY CITY OR TOWN IN  
3 THIS STATE ON THE PRIVILEGE OF ENGAGING IN BUSINESS AS A RETAILER.

4           2. THE CITY OR TOWN SHALL PROVIDE A CREDIT AGAINST ITS TAX IN THE  
5 AMOUNT OF ANY EXCISE TAXES IMPOSED ON THE SALE OR USE OF THE PROPERTY UNDER  
6 THE LAWS OF ANOTHER STATE, OF A POLITICAL SUBDIVISION OF ANOTHER STATE OR OF  
7 THE UNITED STATES, TO THE EXTENT THAT THE AGGREGATE RATE OF THE OTHER TAX  
8 EXCEEDS THE STATE TAX RATE.

9           E. FOR THE PURPOSES OF SUBSECTION D OF THIS SECTION, "STORAGE" MEANS  
10 KEEPING OR RETAINING TANGIBLE PERSONAL PROPERTY PURCHASED FROM A RETAILER FOR  
11 ANY PURPOSE EXCEPT SALE IN THE REGULAR COURSE OF BUSINESS OR SUBSEQUENT USE  
12 SOLELY OUTSIDE THE MUNICIPALITY.

13           F. THE DEPARTMENT MAY ADOPT RULES RELATING TO THE SCOPE OF ALL TAXES  
14 BY MUNICIPALITIES IN ORDER TO ENSURE UNIFORMITY IN APPLICATION OF TAXES AMONG  
15 THE VARIOUS MUNICIPALITIES AND WITH THIS STATE. THE DEPARTMENT MAY ISSUE  
16 RULINGS AND GUIDELINES IT CONSIDERS NECESSARY TO ENSURE UNIFORMITY OF AUDIT  
17 POLICY AMONG THE VARIOUS MUNICIPALITIES AND WITH THIS STATE.

18           42-6052. Municipal residential lease classification

19           A. THE RESIDENTIAL LEASE CLASSIFICATION IS COMPRISED OF THE BUSINESS  
20 OF LEASING OR RENTING FOR A CONSIDERATION DWELLING UNITS, LODGING FACILITIES  
21 OR TRAILER OR MOBILE HOME SPACES IF THE UNITS, FACILITIES OR SPACES ARE  
22 INTENDED TO SERVE AS THE PRINCIPAL OR PERMANENT PLACE OF RESIDENCE FOR THE  
23 LESSEE OR RENTER. THE RESIDENTIAL LEASE CLASSIFICATION DOES NOT INCLUDE:

24           1. ANY BUSINESS ACTIVITY THAT IS CLASSIFIED UNDER THE TRANSIENT  
25 LODGING CLASSIFICATION UNDER SECTION 42-5070.

26           2. THE OPERATION OF A CONVALESCENT HOME OR FACILITY, HOME FOR THE  
27 AGED, HOSPITAL, JAIL, MILITARY INSTALLATION OR FRATERNITY OR SORORITY HOUSE  
28 OR THE OPERATION OF ANY STRUCTURE EXCLUSIVELY BY AN ASSOCIATION, INSTITUTION,  
29 GOVERNMENTAL AGENCY OR CORPORATION FOR RELIGIOUS, CHARITABLE OR EDUCATIONAL  
30 PURPOSES, IF NO PART OF THE NET EARNINGS OF THE ASSOCIATION, CORPORATION OR  
31 OTHER ENTITY INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL.

32           B. FOR THE PURPOSES OF SUBSECTION A OF THIS SECTION, "PRINCIPAL OR  
33 PERMANENT PLACE OF RESIDENCE" MEANS A UNIT, FACILITY OR SPACE LEASED OR  
34 RENTED TO A SINGLE TENANT FOR TWENTY-EIGHT OR MORE CONSECUTIVE DAYS.

35           C. THE TAX BASE FOR THE RESIDENTIAL LEASE CLASSIFICATION IS THE GROSS  
36 PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE BUSINESS, BUT  
37 REIMBURSEMENTS TO THE LESSOR FOR UTILITY SERVICE SHALL BE DEDUCTED FROM THE  
38 TAX BASE IF THE LESSOR HAS INSTALLED UTILITY METERS FOR EACH TENANT AND  
39 SEPARATELY CHARGES EACH TENANT FOR UTILITY SERVICE BASED ON THE READINGS OF  
40 EACH METER.

41           42-6053. Municipal commercial license classification;  
42 definition

43           A. THE COMMERCIAL LICENSE CLASSIFICATION IS COMPRISED OF THE BUSINESS  
44 OF LICENSING FOR A CONSIDERATION THE USE OR OCCUPANCY OF REAL PROPERTY. THE  
45 COMMERCIAL LICENSE CLASSIFICATION DOES NOT INCLUDE:

1           1. ANY BUSINESS ACTIVITIES THAT ARE CLASSIFIED UNDER THE TRANSIENT  
2 LODGING CLASSIFICATION UNDER SECTION 42-5070.

3           2. ACTIVITIES ENGAGED IN BY THE ARIZONA EXPOSITION AND STATE FAIR  
4 BOARD OR COUNTY FAIR COMMISSIONS IN CONNECTION WITH EVENTS SPONSORED BY ANY  
5 OF THOSE ENTITIES.

6           3. THE JOINT USE OF UTILITY POLES BY PERSONS ENGAGED IN THE BUSINESSES  
7 CLASSIFIED UNDER THE UTILITIES CLASSIFICATION AND THE TELECOMMUNICATIONS  
8 CLASSIFICATION UNDER CHAPTER 5, ARTICLE 2 OF THIS TITLE.

9           4. THE LICENSING OF REAL PROPERTY BY A LICENSOR TO AN AFFILIATED  
10 PERSON. FOR THE PURPOSES OF THIS PARAGRAPH, AN AFFILIATED PERSON IS AN  
11 INDIVIDUAL OR GROUP OF INDIVIDUALS, CORPORATIONS OR PARTNERSHIPS THAT OWNS OR  
12 CONTROLS AT LEAST EIGHTY PER CENT OF THE LICENSOR AND IS AT LEAST EIGHTY PER  
13 CENT OWNED OR CONTROLLED BY A PERSON THAT ALSO OWNS OR CONTROLS AT LEAST  
14 EIGHTY PER CENT OF THE LICENSOR. OWNERSHIP AND CONTROL ARE DETERMINED BY THE  
15 REFERENCE TO THE VOTING SHARE OF A CORPORATION AND BY REFERENCE TO THE  
16 PERCENTAGE INTEREST IN PROFITS OF A PARTNERSHIP.

17           5. THE OPERATION OF A CONVALESCENT HOME OR FACILITY, HOME FOR THE  
18 AGED, HOSPITAL, JAIL, MILITARY INSTALLATION OR FRATERNITY OR SORORITY HOUSE  
19 OR THE OPERATION OF ANY STRUCTURE EXCLUSIVELY BY AN ASSOCIATION, INSTITUTION,  
20 GOVERNMENTAL AGENCY OR CORPORATION FOR RELIGIOUS, CHARITABLE OR EDUCATIONAL  
21 PURPOSES, IF NO PART OF THE NET EARNINGS OF THE ASSOCIATION, CORPORATION OR  
22 OTHER ENTITY INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL.

23           B. THE TAX BASE FOR THE COMMERCIAL LICENSE CLASSIFICATION IS THE GROSS  
24 PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE BUSINESS, BUT THE TAX BASE  
25 DOES NOT INCLUDE:

26           1. REIMBURSEMENTS TO THE LICENSOR FOR UTILITY SERVICE IF THE LICENSOR  
27 HAS INSTALLED INDIVIDUAL UTILITY METERS FOR EACH LICENSEE AND SEPARATELY  
28 CHARGES EACH LICENSEE FOR UTILITY SERVICE BASED ON THE READINGS OF EACH  
29 METER.

30           2. THE PERIODIC MEMBERSHIP FEES OR DUES COLLECTED FROM MEMBERS BY  
31 BUSINESSES OPERATING TIME-SHARE FACILITIES OR CLUBS, IF THESE MEMBERSHIPS ARE  
32 FOR PERIODS OF AT LEAST ONE YEAR AND PROVIDE FOR ESSENTIALLY FREE USE OF THE  
33 FACILITIES FOR MORE THAN ONE CONSECUTIVE TIME PERIOD OR FOR THE ENTIRE  
34 MEMBERSHIP PERIOD.

35           C. FOR THE PURPOSES OF THIS SECTION, "REAL PROPERTY" INCLUDES ANY  
36 IMPROVEMENTS, RIGHTS AND INTERESTS IN SUCH PROPERTY.

37           42-6054. Municipal developer classification; definition

38           A. THE DEVELOPER CLASSIFICATION IS COMPRISED OF THE BUSINESS OF ACTING  
39 AS A DEVELOPER.

40           B. THE TAX BASE FOR THE DEVELOPER CLASSIFICATION IS SIXTY-FIVE PER  
41 CENT OF THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE  
42 BUSINESS. THE FOLLOWING AMOUNTS SHALL BE DEDUCTED FROM THE GROSS PROCEEDS OF  
43 SALES OR GROSS INCOME BEFORE COMPUTING THE TAX BASE:

44           1. THE SALES PRICE AND INSTALLATION CHARGES OF GROUNDWATER MEASURING  
45 DEVICES REQUIRED UNDER SECTION 45-604.

1           2. THE PURCHASE PRICE PAID BY THE DEVELOPER FOR FURNITURE,  
2 FURNISHINGS, FIXTURES, APPLIANCES AND ATTACHMENTS THAT ARE SOLD TOGETHER WITH  
3 THE STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT, UNLESS THE PURCHASE PRICE  
4 PAID FOR THOSE ITEMS BY THE DEVELOPER WAS EXCLUDED FROM THE TAX BASE OF THE  
5 SELLER UNDER SECTION 42-5061, SUBSECTION A, PARAGRAPH 27.

6           3. ANY AMOUNTS PAID BY THE DEVELOPER TO PRIME CONTRACTORS, AS DEFINED  
7 IN SECTION 42-5075, FOR PRIME CONTRACTING WITH RESPECT TO THE REAL PROPERTY  
8 IMPROVEMENT.

9           4. THE GREATER OF:

10          (a) THE SALES PRICE OF THE LAND, WHICH SHALL NOT EXCEED THE FAIR  
11 MARKET VALUE.

12          (b) THE PURCHASE PRICE ORIGINALLY PAID BY THE DEVELOPER FOR THE LAND  
13 AND ANY EXISTING IMPROVEMENTS.

14          C. FOR THE PURPOSES OF THIS SECTION, "DEVELOPER" MEANS A DEVELOPER,  
15 INVESTOR OR SPECULATIVE BUILDER OR ANY OTHER PERSON WHO ORGANIZES,  
16 COORDINATES OR CONTROLS THE CONSTRUCTION OF ANY REAL PROPERTY IMPROVEMENT FOR  
17 SALE AND INCLUDES A PRIME CONTRACTOR AS DEFINED IN SECTION 42-5075.

18          42-6055. Municipal land sale classification; definition

19          A. THE LAND SALE CLASSIFICATION IS COMPRISED OF THAT PORTION OF THE  
20 BUSINESS OF A DEVELOPER INVOLVING THE SALE OF LAND THAT THE DEVELOPER HAS  
21 CAUSED TO BE IMPROVED. IMPROVEMENT OF THE LAND INCLUDES OFF-SITE  
22 IMPROVEMENTS AS WELL AS ON-SITE IMPROVEMENTS. THE LAND SALE CLASSIFICATION  
23 DOES NOT INCLUDE:

24           1. ANY SALE OF LAND BY A PERSON OTHER THAN A DEVELOPER.

25           2. ANY SALE OF IMPROVED LAND BY A DEVELOPER IF THE DEVELOPER DID NOT  
26 FINANCE, ORGANIZE, COORDINATE OR CONTROL THE CONSTRUCTION OF THE  
27 IMPROVEMENTS.

28           3. ANY SALE OF LAND TO A DEVELOPER FOR FURTHER IMPROVEMENT AND  
29 SUBSEQUENT RESALE.

30          B. THE TAX BASE FOR THE LAND SALE CLASSIFICATION IS SIXTY-FIVE PER  
31 CENT OF THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE  
32 BUSINESS. THE TAX BASE DOES NOT INCLUDE ANY GROSS PROCEEDS OF SALES OR GROSS  
33 INCOME THAT IS INCLUDED IN THE TAX BASE UNDER THE PRIME CONTRACTING  
34 CLASSIFICATION UNDER SECTION 42-5075 OR THE DEVELOPER CLASSIFICATION UNDER  
35 SECTION 42-6054.

36          C. THE FOLLOWING AMOUNTS SHALL BE DEDUCTED FROM THE GROSS PROCEEDS OF  
37 SALES OR GROSS INCOME BEFORE COMPUTING THE TAX BASE:

38           1. ALL AMOUNTS PAID TO A PERSON ENGAGED IN BUSINESS CLASSIFIED UNDER  
39 THE PRIME CONTRACTING CLASSIFICATION UNDER SECTION 42-5075 FOR CONSTRUCTING  
40 IMPROVEMENTS FOR THE LAND, TO THE EXTENT THE AMOUNTS HAVE NOT BEEN USED AS A  
41 DEDUCTION BY THE DEVELOPER IN COMPUTING THE TAX BASE UNDER ANY OTHER BUSINESS  
42 CLASSIFICATION.

43           2. THE PURCHASE PRICE FOR THE LAND PAID BY THE DEVELOPER, OR THE  
44 PURCHASE PRICE PAID BY ANY PREVIOUS OWNER, IF ALL OF THE FOLLOWING APPLY:

45           (a) THE LAND, AS PURCHASED, WAS IMPROVED.

1 (b) THE SALE TO WHICH THE PURCHASE PRICE RELATES WAS AN ACTIVITY OF  
2 THE SELLER INCLUDED IN THE LAND SALE CLASSIFICATION.

3 (c) THE SALE OCCURRED AFTER DECEMBER 31, 1998.

4 D. ANY PERSON WHO CLAIMS A DEDUCTION UNDER SUBSECTION C, PARAGRAPH 2  
5 OF THIS SECTION HAS THE BURDEN OF ESTABLISHING THE AMOUNT OF THE PURCHASE  
6 PRICE CLAIMED AS THE DEDUCTION AND THE FACT THAT THE SALE TO WHICH THE  
7 PURCHASE PRICE RELATES WAS AN ACTIVITY OF THE SELLER INCLUDED IN THE LAND  
8 SALE CLASSIFICATION.

9 E. FOR THE PURPOSES OF THIS SECTION, "DEVELOPER" HAS THE SAME MEANING  
10 PRESCRIBED IN SECTION 42-6054.

11 42-6056. Municipal food sale classification; definition

12 A. THE FOOD SALE CLASSIFICATION IS COMPRISED OF THE BUSINESS OF  
13 SELLING FOOD AT RETAIL BY THOSE PERSONS DESCRIBED IN SECTION 42-5102,  
14 SUBSECTION A.

15 B. THE TAX BASE FOR THE FOOD SALE CLASSIFICATION IS THE GROSS PROCEEDS  
16 OF SALES OR GROSS INCOME DERIVED FROM THE BUSINESS. THE GROSS PROCEEDS OF  
17 SALES OR GROSS INCOME DERIVED FROM SALES DESCRIBED IN SECTION 42-5061,  
18 SUBSECTION A, PARAGRAPHS 5, 18 AND 19 SHALL BE DEDUCTED FROM THE TAX BASE.

19 C. FOR THE PURPOSES OF THIS SECTION, "FOOD" HAS THE MEANING PRESCRIBED  
20 BY RULE ADOPTED BY THE DEPARTMENT PURSUANT TO SECTION 42-5106.

21 42-6057. Municipal cable television classification; definition

22 A. THE CABLE TELEVISION CLASSIFICATION IS COMPRISED OF THE BUSINESS OF  
23 PROVIDING INTRASTATE TELECOMMUNICATIONS SERVICES BY A CABLE TELEVISION SYSTEM  
24 AS DEFINED IN SECTION 9-505.

25 B. THE TAX BASE FOR THE CABLE TELEVISION CLASSIFICATION IS THE GROSS  
26 PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE BUSINESS, BUT THE GROSS  
27 INCOME DERIVED FROM SALES OF INTRASTATE TELECOMMUNICATIONS SERVICES TO ANY  
28 PERSON ENGAGED IN THE BUSINESS CLASSIFIED UNDER THE CABLE TELEVISION  
29 CLASSIFICATION FOR USE IN THAT BUSINESS SHALL BE DEDUCTED FROM THE TAX BASE.

30 C. FOR THE PURPOSES OF THIS SECTION, "INTRASTATE TELECOMMUNICATIONS  
31 SERVICES" HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5064.

32 42-6058. Municipal local advertising classification; definition

33 A. THE LOCAL ADVERTISING CLASSIFICATION IS COMPRISED OF THE BUSINESS  
34 OF LOCAL ADVERTISING BY BILLBOARDS, DIRECT MAIL, RADIO, TELEVISION OR ANY  
35 OTHER MEANS.

36 B. THE TAX BASE FOR THE LOCAL ADVERTISING CLASSIFICATION IS THE GROSS  
37 PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE BUSINESS BUT DOES NOT  
38 INCLUDE COMMISSIONS AND FEES RETAINED BY AN ADVERTISING AGENCY.

39 C. FOR THE PURPOSES OF THIS SECTION, "LOCAL ADVERTISING" MEANS THE  
40 DELIVERY OR DISSEMINATION OF INFORMATION DIRECTLY TO ANY PORTION OF THE  
41 PUBLIC FOR ANY CONSIDERATION, BUT LOCAL ADVERTISING DOES NOT INCLUDE:

42 1. ADVERTISING OF A PRODUCT OR SERVICE THAT IS SOLD OR PROVIDED BOTH  
43 IN AND OUTSIDE OF THIS STATE BY MORE THAN ONE COMMONLY DESIGNATED BUSINESS  
44 ENTITY IN THIS STATE, AND IN WHICH THE ADVERTISEMENT MEANS EITHER NO COMMONLY  
45 DESIGNATED BUSINESS ENTITY IN THIS STATE OR MORE THAN ONE COMMONLY DESIGNATED



1 BUSINESS ENTITY. FOR THE PURPOSES OF THIS PARAGRAPH, "COMMONLY DESIGNATED  
2 BUSINESS ENTITY" MEANS A PERSON SELLING OR PROVIDING A PRODUCT OR SERVICE TO  
3 ITS CUSTOMERS UNDER A COMMON BUSINESS NAME OR STYLE, EVEN THOUGH THERE MAY BE  
4 MORE THAN ONE LEGAL ENTITY CONDUCTING BUSINESS FUNCTIONS USING THE SAME OR  
5 SUBSTANTIALLY THE SAME BUSINESS NAME OR STYLE BY VIRTUE OF A FRANCHISE,  
6 LICENSE OR SIMILAR AGREEMENT.

7 2. ADVERTISING A FACILITY OR A SERVICE OR ACTIVITY IN WHICH NEITHER  
8 THE FACILITY NOR A BUSINESS SITE CARRYING ON THE SERVICE OR ACTIVITY IS  
9 LOCATED IN THIS STATE.

10 3. ADVERTISING A PRODUCT THAT MAY BE PURCHASED ONLY FROM AN  
11 OUT-OF-STATE SUPPLIER.

12 4. POLITICAL ADVERTISING FOR UNITED STATES PRESIDENTIAL AND  
13 VICE-PRESIDENTIAL CANDIDATES ONLY.

14 5. ADVERTISING BY MEANS OF PRODUCT PURCHASE COUPONS REDEEMABLE AT A  
15 RETAIL ESTABLISHMENT CARRYING THE PRODUCT BUT NOT PRODUCT COUPONS REDEEMABLE  
16 ONLY AT A SINGLE COMMONLY DESIGNATED BUSINESS ENTITY.

17 6. ADVERTISING TRANSPORTATION SERVICES IF A SUBSTANTIAL PORTION OF THE  
18 TRANSPORTATION ACTIVITY OF THE BUSINESS ENTITY ADVERTISED INVOLVES INTERSTATE  
19 OR FOREIGN CARRIAGE.

20 42-6059. Municipal motor vehicle rental classification

21 A. THE MOTOR VEHICLE RENTAL CLASSIFICATION IS COMPRISED OF THE  
22 BUSINESS OF LEASING, LICENSING FOR USE OR RENTING MOTOR VEHICLES WITH A GROSS  
23 VEHICLE WEIGHT OF LESS THAN TWELVE THOUSAND POUNDS FOR A TERM OF NOT MORE  
24 THAN THIRTY-ONE CALENDAR DAYS.

25 B. THE TAX BASE FOR THE MOTOR VEHICLE RENTAL CLASSIFICATION IS THE  
26 GROSS INCOME DERIVED FROM THE BUSINESS.

27 C. FOR THE PURPOSES OF DETERMINING THE DURATION OF THE TERM OF A  
28 LEASE, RENTAL OR LICENSE:

29 1. IF, BEFORE OR AT THE BEGINNING OF THE LEASE, LICENSE OR USE OF THE  
30 VEHICLE, THE LESSOR AND LESSEE AGREE IN WRITING THAT, EXCLUDING CHARGES FOR  
31 MILEAGE AND DAMAGE, THE PRIMARY CONSIDERATION WILL BE A FIXED AMOUNT BASED ON  
32 THE TIME FOR THE LEASE, LICENSE OR USE, THE TERM IS DETERMINED BY THE TOTAL  
33 PERIOD FOR WHICH THE FIXED AMOUNT IS OR WAS CHARGED OR PAID FOR THE VEHICLE  
34 USE.

35 2. IN ALL OTHER CASES, THE TERM IS CONSIDERED TO BEGIN ON THE DATE OF  
36 FIRST POSSESSION OR USE OF THE VEHICLE AND TO END WHEN POSSESSION OR USE  
37 CEASES.

38 42-6060. Municipal wastewater removal classification

39 A. THE WASTEWATER REMOVAL CLASSIFICATION IS COMPRISED OF THE BUSINESS  
40 OF PROVIDING WASTEWATER REMOVAL SERVICES FROM PREMISES, LOCATIONS OR  
41 FACILITIES LOCATED IN THE MUNICIPALITY BY MEANS OF SEWER LINES OR SIMILAR  
42 PIPELINES.

1           B. THE TAX BASE FOR THE WASTEWATER REMOVAL CLASSIFICATION IS THE GROSS  
2 INCOME DERIVED FROM THE BUSINESS, BUT GROSS INCOME RELATING TO PROVIDING  
3 WASTEWATER REMOVAL SERVICES FROM A NONPROFIT PRIMARY HEALTH CARE FACILITY  
4 SHALL BE DEDUCTED FROM THE TAX BASE.

5           Sec. 12. Effective date

6           This act is effective from and after December 31, 2006.